

**BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001**

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY**

**Revisions to Library Reference Rule**

**Docket No. RM98-2**

**DOUGLAS F. CARLSON  
COMMENTS ON PROPOSED REVISIONS  
TO LIBRARY REFERENCE PRACTICE**

**October 15, 1999**

Pursuant to Order No. 1263, I hereby file comments on the Commission's proposed revisions to the *Rules of Practice* governing library references.

The Commission should encourage the participation by individuals in postal ratemaking proceedings. Individuals provide an important perspective to the record. Participation in omnibus cases is expensive, however, primarily due to high photocopying and mailing expenses. Unfortunately, the proposed revisions would impose a significant burden in omnibus cases on parties located a long distance from Washington who wish to view particular library references.

In recent Commission proceedings, I have periodically requested that a party who filed a library reference provide me with a copy of the library reference. This process has worked well, allowing me to obtain library references while avoiding an expensive trip to Washington to view the library references.

Under the proposed rules, a party may request that a copy of a library reference be served upon him if the material was filed as a library reference because “interest in the material or things so labeled is likely to be so limited that service on the entire list would be unreasonably burdensome, and the participant agrees to serve the material on individual participants upon request within three days of a request.” Proposed Rule 31(b)(2)(ii)(A). I support this revision.

If, on the other hand, a party files a library reference containing material that is being filed “in compliance with a discovery request for production of documents or things,” the party is not required to comply with special requests. Proposed Rule 31(b)(2)(ii)(D) and 31(b)(2)(ix). In fact, special requests for service of material filed as a library reference are “not encouraged,” and they “must be made in the form of a detailed motion setting forth the reasons why service is necessary or appropriate.” Proposed Rule 31(b)(2)(ix).

I implore the Commission to consider the effect of this proposed rule on an individual participant who lives a long distance from Washington. This party probably will spend \$30 to \$50 to file and serve the interrogatories that request the documents. In some cases, the party will not even be requesting documents, but the opposing party will respond to the interrogatory by filing several documents. The party who filed the interrogatory then would be required to file *another* pleading — a motion — at an *additional* expense of \$30 to \$50 minimum. In addition to this extra expense, the party probably will lose at least 7

to 10 days from the time the library reference was filed until his motion for a special request for service will be filed. The opposing party will have an additional 10 days to respond to the motion, and then the presiding officer will need to issue a ruling (at a cost, incidentally, to the Commission, as well, for duplicating and mailing). This proposed rule would effectively add \$30 to \$50 to the interrogating party's expenses in obtaining a response to an interrogatory, and the rule likely would add a delay of at least 20 to 30 days. A 20- to 30-day delay could comprise a substantial portion of the total discovery period in a proceeding, causing significant prejudice to the party's case.

The status quo — a rule that is silent on the issue of special requests for service — would be better than this proposed rule. I strongly encourage the Commission to reconsider the negative effect of requiring special requests for service for documents filed in response to an interrogatory to take the form of a motion. One compromise might be to require the party to serve the documents on the interrogating party upon request; special requests from other parties would require a motion. However, I firmly oppose the current proposal to require the party who requested the documents to file a motion in order to obtain the documents if he is unable to make a trip to Washington to view them.

Respectfully submitted,



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DOUGLAS F. CARLSON

Dated: October 15, 1999